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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture
Fifty-second session

Summary record of the second part (public)* of the 1213th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 29 April 2014, at 3 p.m.

Chairperson: Mr. Grossman

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* The summary record of the first part (closed) of the meeting appears as document CAT/C/SR.1213.

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The second part (public) of the meeting was called to order at 4.40 p.m.

Meeting with States parties

1. **The Chairperson**, welcoming the States parties to the Convention, said that it had become customary for the Committee to hold an interactive dialogue with States. It gave the Committee an opportunity to help States fulfil their obligations under the Convention, while States could also advise the Committee on how to deal with States parties that had not submitted reports, despite the fact that the obligation was mandatory and they had long ratified the Convention. There were 29 States that had not submitted reports and a further 39 had submitted them late. The system, which States themselves had set up under article 22 of the Convention, could clearly not function efficiently under such circumstances.

2. From 2015, the Committee would be meeting 11.5 weeks per year rather than 8, owing to a backlog in the consideration of reports. There were 140 communications pending and, in that connection, he noted that the Secretariat lacked the budget to put together the relevant files. With regard to article 3 of the Convention concerning non-refoulement, the Committee could sometimes instigate precautionary measures, but again, owing to a lack of staff and resources, that procedure could not always be adopted. He noted that the Committee was able to deal with all files prepared by the Secretariat, despite its being one of the smallest of the human rights treaty bodies.

3. States parties often did not understand their obligation not to conduct reprisals against any person who used the Committee's procedures, or a member of that person's family. In that connection, he said that people appearing before the Committee were not necessarily innocent. Terrorists, child rapists and other criminals had had their cases heard, but the Committee was made up of experienced people who were generally able to distinguish truth from falsehood. Whatever their crimes, complainants had the right, under the Convention, not to be subjected to torture. Lastly, he welcomed the two new members of the Committee.

4. **Mr. Pasquier** (Switzerland) said that Switzerland would submit its seventh report in 2015. With regard to the Committee's schedule, he acknowledged that the Committee had a significant workload and limited resources, but one step towards improving the review process would be to ensure that all reports were dealt with within 6 to 12 months of being received by the Committee.

5. **Ms. Wegter** (Denmark) said that she agreed with many of the points raised by the Chairperson. In that connection, she recalled that, jointly with Ghana, Indonesia and Morocco, Denmark had, the previous month, launched a 10-year initiative for the ratification and implementation of the Convention. She could not provide any details, which would be worked out between the partners, but the focus would be on helping States overcome practical obstacles rather than pointing the finger of blame. She recognized that the initiative would create more work in the short term, but in the long term it should reduce the number of complaints made to the Committee.

6. She asked how the Committee perceived the relationship between itself and the universal periodic review of the Human Rights Council. In particular, she wondered whether the recommendations made by the review were helpful to the Committee.

7. **Mr. Appreku** (Ghana) said that the Committee's work was of great importance to his country. Ghana had not yet acted on all the Committee's recommendations but would do so before long. With regard to the Committee's lack of resources, he was concerned that he had come across the recommendations by chance and had since had to resort to the Internet to gather information on recommendations by all the human rights treaty bodies. Regardless of the budget situation, the Secretariat should not allow long periods to elapse without providing information. Ghana had, however, become more proactive as a result.

8. He noted that the universal periodic review called on States to ratify the Convention and its protocols, which was encouraging for the future development of the Convention. Lastly, he noted that the Sixth Committee of the General Assembly was considering the question of universal jurisdiction. Surprisingly, some States seemed not to accept that torture should come under the terms of reference for universal jurisdiction, considering that there was no crime against humanity that did not include torture as a fundamental element.

9. **Mr. Benard Estrada** (Guatemala) said that the Committee's work was extremely important to his country. As a result of the Committee's recommendations, Guatemala had set up a national commission against torture in 2010, although the five permanent members and the five alternates had only just been appointed.

10. **Mr. Narteh-Messan** (Togo) said that he shared the Committee's concern about the use of reprisals against people who applied to the Committee; the international community should undoubtedly take stronger action against States that did not comply. As for the delay in the submission of reports, he agreed that late submission weakened the impact of the Convention, but the working methods of the Committee played some part in such delays: States sometimes lacked the courage to submit a report because the Committee's approach seemed to be that of a court of law rather than a dialogue, whereas, in fact, the Committee should concentrate on the actual obstacles and how a State could overcome them. As the representative of Denmark had said, failure to eliminate torture was not always due to a lack of will but rather to practical obstacles faced by a country.

11. **The Chairperson** introduced the members of the Committee to the representatives of the States parties. He said that the Committee was continuing to assess the system of issuing lists of issues prior to reporting with a view to making it more effective. He agreed on the desirability of considering periodic reports of States parties within 12 months of their submission. Currently, the Committee was doing so within an average of 15 to 18 months. The initiative by Denmark and other States parties aimed at achieving universal ratification of the Convention was welcome. The roles of the Committee and the universal periodic review were different and cross-fertilization between the two was very fruitful. With limited resources at their disposal, however, a more creative approach to their interaction was needed. Universal jurisdiction for crimes of torture was addressed by article 7 of the Convention. Progress by Guatemala on the establishment of a national preventive mechanism was laudable. The concerns expressed by the representative of Togo with regard to how the Committee structured its dialogue with States parties would be taken into account.

12. **Mr. Gaye** said that late submission of periodic reports by States parties exacerbated delays in their consideration by the Committee, which was also hamstrung by limited resources. When a State party presented its report to the Committee, the Chairperson took pains to underline that what ensued would be a dialogue in no way reminiscent of the workings of a court. Perhaps that impression was conveyed by the fact that experts went to considerable trouble to analyse closely the situation in each State party. It was, however, their job to do just that.

13. **Ms. Gaer** said that the fundamental concern of the Committee when it considered the periodic reports of States parties was to establish what they were doing to implement the prohibition of torture. In the past, the Committee had indeed had more the appearance of a court, when delegations of States parties were required to remain in Geneva for 36 hours in order to hear the Committee's concluding observations in the form of an oral "verdict". Time constraints had led to the abandonment of that practice. Committee members, who did a great deal of work out of session, unfortunately had too little time to develop lists of issues prior to reporting that were fully satisfactory. The Committee did not benefit from briefing documents from other agencies, along the lines of those received by the Committee on the Rights of the Child from the United Nations Children's Fund, and

therefore relied heavily on universal periodic review summaries as initial background documentation on States parties due to be examined. The work of the universal periodic review had also encouraged States parties to be more diligent in submitting periodic reports.

14. **Mr. Domah** said that the fundamental task of the Committee, to drive evil from the hearts of men, was extremely difficult.

15. **Mr. Modvig** welcomed the initiative led by Denmark on the universal ratification of the Convention.

16. **Mr. Tugushi** said that, with regard to reprisals, the Committee had discussed with the Russian Federation cases involving several human rights organizations that had been affected by legislation requiring certain NGOs that received funding from abroad to register as foreign agents. Suggestions by the Committee regarding amendment of the law had fallen on deaf ears. More than a dozen NGOs that had collaborated with the Committee were facing dissolution or other sanctions if they failed to register as foreign agents. The Committee was monitoring the situation closely. States parties had a key role to play in preventing reprisals by governments against individuals or civil society organizations that reported to the Committee. Details of the Committee's correspondence with the Russian Federation on the matter could be viewed on the Committee's website.

17. **Ms. Belmir** said that the aim of the Committee's dialogues with States parties was, ultimately, to assist them to improve the human rights situation in their countries.

18. **Mr. Zorrilla** (Mexico) said that his country continued to support the Committee's work fully.

19. **Mr. Appreku** (Ghana) asked how it had come to pass that the Committee was the smallest of the treaty body committees and why its resources were so limited. He said that it should pay close attention to discussions taking place in the General Assembly regarding which offences to include in the list of crimes that would be subject to universal jurisdiction under customary international law. Surprisingly few member States had suggested including the crime of torture.

20. **The Chairperson** reiterated that article 7 of the Convention regulated the way in which States parties should approach crimes of torture and extradition in the context of universal jurisdiction. The size of the Committee, which was a creation of the States parties to the Convention, brought with it disadvantages and advantages. One of the latter was its capacity to act nimbly.

The second part (public) of the meeting rose at 6 p.m.